

Foreword

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Fundamental questions are being asked around the world about the responsibilities of businesses for the protection and promotion of human rights. These questions have arisen, both as a consequence of the broad concerns about the impacts of globalisation on the poor, as well as a series of high-profile incidents (e.g. Shell in Nigeria, BP in Colombia, Nike in Vietnam) involving leading multinational companies. My sense is that there has been a clear shift in business's responses to these questions. While the 1990s could be characterised as a period of business reluctance to become actively involved in the human rights debate, recent years have seen a growing willingness, at least among the leading companies, to seize the opportunities and responsibilities that global citizenship brings. The language of 'corporate social responsibility', which clearly locates companies as actors within society, with associated rights and responsibilities, is indicative of how far corporate attitudes to human rights have shifted. This is further illustrated by the fact that some 40 multinational companies have explicit policy commitments to the protection and promotion of human rights.

Despite these changes, companies' approaches to corporate social responsibility are not universal or objective but are culturally relative, largely philanthropic and subjective by nature. Of course there is nothing wrong with community-focused approaches or philanthropy; in fact they are essential parts of the business contribution to the protection and promotion of human rights. But it remains the case that virtually all of the corporate social responsibility debates around the world make no reference to international human rights standards. Consequently, it is difficult to draw meaningful comparisons between different companies, different countries or communities and the impacts that companies can have on the many different thematic issues that comprise the 'social dimension' of human existence.

This is compounded by the common misconception among the public and many politicians, especially in the West, that human rights is just about civil and political rights—the areas in which high-profile groups such as Amnesty Inter-

national and Human Rights Watch have traditionally focused. Yet, reading the 1948 Universal Declaration of Human Rights, we see that issues such as health, housing and education have equal prominence. Those businesses that have looked at their activities across the full spectrum of civil, political, economic, social and cultural rights have seen that they are already doing much that should be informed by human rights. As just one example, companies' human resources policies intersect with human rights as a result of an increasing interest in issues of diversity, the need to guard against any forms of discrimination, as well as the more traditional discussions around labour rights and health and safety at work.

Perhaps the other major change in recent years has been the emergence of clear drivers for companies to see human rights as an integral part of their overall operations. There are many 'carrots' for a business that is sincere in looking for opportunities of being a global-class employer, provider and partner to its stakeholders. There are also some clear 'sticks' emerging that will concentrate attention of business in the years to come. It is interesting to note that it is sometimes in countries with relatively new constitutions based on international human rights law, South Africa being a good example, that the greatest progress towards understanding business responsibility for the 'right to health' or the 'right to housing' has been made. The recent ruling of the African Court of People's and Human Rights on the activities of the Nigerian government in the mid-1990s, and by association the oil companies involved, is clear about how the economic, social and cultural rights of the local population were abused. In the USA, there has been a growth of claims against transnational companies under the long-dormant Alien Tort Claims Act of 1789. A recent series of high-profile lawsuits has shown that international businesses can be brought to a US court when they are seen to be complicit in the abuses by foreign governments relating to genocide, war crimes, slavery, torture, executions, crimes against humanity or unlawful detention.

The growing international interest in the 'ethics' of business means that it is becoming more difficult for business to deny the need for a 'level playing field', an ethical baseline below which no business can go. When such a standard emerges, it is highly likely that it will be based on international human rights norms. The UN Human Rights Sub-Commission's 'Draft Norms of Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights' gives an indication of what might eventually become the basis for international law. There is a significant opportunity for progressive companies to play a leading role in shaping the architecture for the regulation of corporate governance, not just in the self-interest of each business but in the interests of all stakeholders and humankind in general.

Despite the growing consensus that companies do have responsibilities for the protection and promotion of human rights, and despite the business and moral arguments for companies to take these responsibilities seriously, there are many questions around the direction that we need to take. I find that many business leaders are unsure about where their responsibilities for human rights begin and end. They are concerned that, by expressing their commitment to international standards such as the Universal Declaration of Human Rights, they might be going beyond their proper role into the realm of government responsibility for the promotion and protection of human rights. Despite initiatives such as the United

Nations Global Compact, which has made some progress in engaging companies from around the world to address their contribution to human rights, labour and environmental standards, there is still the feeling that asking companies to take responsibility for human rights is asking them to take on the responsibility of governments. Furthermore, these discussions are complicated by the many uncertainties that remain around corporate responsibility for human rights, such as:

- How far should companies be expected to go in defining and promoting global standards in areas such as corporate governance, financial accounting and reporting, ethics, environmental impacts, consumer rights, labour conditions and human rights?
- Is legal compliance sufficient in countries where governments are administratively weak or deemed to be corrupt or illegitimate by their citizens?
- Does business have any business in poverty alleviation? If so, how does it tackle this challenge in an innovative and profitable manner?
- How do companies avoid 'letting governments off the hook' or substituting the company for government in terms of meeting people's needs and aspirations?

While there has been much talk of what companies should do, there has been less analysis of what companies have done in practice. It is here that this book makes such a valuable contribution, through its analysis of the actual experiences of companies in responding to specific human rights issues in the context of their own operations, in their supply chains and in specific countries. I am particularly pleased that the chapters in this book cover such a wide range of case studies from so many countries dealing with the full complexity of human rights issues and different actors. The inspiration of this book is to offer insight into what factors have been critical in the stories of those businesses that have made progress in this area, both in terms of their strategic management and operational impact. I am particularly encouraged that some of the examples here show that business can effectively contribute to human rights issues beyond their areas of direct operations. However, many of the case studies also remind us that most businesses have yet to engage with human rights at all and prefer more philanthropic approaches to social problems. These companies resist any added regulation or what they perceive as additional responsibilities that should belong to government. Yet, with increasing attention given to the very nature of corporate governance, the interface between the state and private actors is recognised as one that can benefit from a shared agenda of upholding human rights.

It is my view that the manner in which companies address human rights is a litmus test for the fairness of the globalisation process. Companies are one of the key actors in the realisation of human rights and their contribution is essential. This book takes stock of progress made in translating aspirations into reality, through showing how companies can play their role in ensuring that globalisation works to the benefit of all.

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